

[HOUSE BILL, No. 267.—SECRET.]

HOUSE OF REPRESENTATIVES, November 10, 1864.—Referred to the Committee on the Judiciary, and read first and second times. December 8, 1864.—Amended, engrossed, read the third time, and passed.

A. R. LAMAR, *Clerk*.

SENATE, December 9, 1864.—Read first and second times, and referred to the Committee on the Judiciary, and ordered to be printed.

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## A BILL

To suspend the privilege of writ of *habeas corpus*, in certain cases, for  
a limited time.

1 SECTION. 1. *The Congress of the Confederate States of America do*  
2 *enact*, That during the present invasion of the Confederate States,  
3 the privilege of the writ of *habeas corpus* be, and the same is  
4 hereby, suspended; but such suspension shall apply only to the  
5 cases of persons arrested or detained by order of the President,  
6 Secretary of War, or the General officer commanding the trans-  
7 Mississippi military department, by the authority and under the  
8 control of the President, except as provided in the fifth section  
9 of this act. It is hereby declared that the purpose of Congress,  
10 in the passage of this act, is to provide more effectually for the  
11 public safety, by suspending the writ of *habeas corpus* in the fol-  
12 lowing cases, and no others:

13     *First.* Of treason, or treasonable efforts or combinations, to  
14 subvert the Government of the Confederate States.

15     *Second.* Of conspiracies to overthrow the Government or  
16 conspiracies to resist the lawful authorities of the Confederate  
17 States.

18     *Third.* Of combining to assist the enemy, or of communicating  
19 intelligence to the enemy, or giving him aid and comfort.

20     *Fourth.* Of conspiracies, preparations and attempts to incite  
21 servile insurrection.

22     *Fifth.* Of desertions, encouraging desertions, and of harbor-  
23 ing deserters.

24     *Sixth.* Of spies and other emissaries of the enemy.

25     *Seventh.* Of holding correspondence or intercourse with the  
26 enemy without necessity and without the permission of the Con-  
27 federate States.

28     *Eighth.* Of unlawful trading with the enemy, and other  
29 offences against the laws of the Confederate States, enacted to  
30 promote their success in the war.

31     *Ninth.* Of conspiracies or attempts to liberate prisoners of  
32 war held by the Confederate States.

33     *Tenth.* Of conspiracies or attempts to aid the enemy.

34     *Eleventh.* Of persons advising or inciting others to abandon  
35 the Confederate cause; or to resist the Confederate States or to  
36 adhere to the enemy.

37 *Twelfth.* Of unlawfully burning, destroying or injuring, or  
 38 attempting to burn, destroy or injure, any bridge, or railroad, or  
 39 telegraphic line of communication, or other property with the  
 40 intent of aiding the enemy.

41 *Thirteenth.* Of treasonable designs to impair the military power  
 42 of the Government, by destroying, or attempting to destroy, the  
 43 vessels, or arms, or munitions of war, or arsenals, foundries,  
 44 workshops, or other property of the Confederate States.

45 *Fourteenth.* Of any unlawful conspiracy with intent to injure  
 46 the Confederate States.

47 *Fifteenth.* Of persons seeking to avoid or be discharged from  
 48 the military service of the Confederate States, by means of the  
 49 writ of *habeas corpus*, unless the writ be issued, in any such case,  
 50 by a court or judge of the Confederate States of America. But  
 51 any person claiming exemption from military service as an offi-  
 52 cer of a State, shall have the privilege of the writ of *habeas*  
 53 *corpus*, as to such claim, as if this act had not been  
 54 passed. In cases of palpable wrong and oppression by any  
 55 subordinate officer, upon any party who does not legally owe  
 56 military service, his superior officer shall grant prompt relief to  
 57 the oppressed party, and the subordinate shall be dismissed from  
 58 office.

1 *Sec. 2.* The President shall cause proper officers to investigate  
 2 the cases of all persons so arrested or detained, and to discharge

3 them if improperly detained, unless they can be speedily tried  
 4 in due course of law. But no person liable to conscription shall  
 5 be appointed under this section and no officer shall perform any  
 6 duty under this section except in the State of which he is a  
 7 citizen.

1 SEC. 3. That during the suspension aforesaid, no military or  
 2 other officer shall be compelled, in answer to any writ of *habeas*  
 3 *corpus*, to appear in person, or to return the body of any person  
 4 or persons detained by him, by the authority of the President,  
 5 Secretary of War, or the General officer commanding the trans-  
 6 Mississippi department; but upon the certificate, under oath, of  
 7 the officer having charge of any one so detained, showing that  
 8 such person is detained by him as a prisoner for any of the  
 9 causes hereinbefore specified, under the authority aforesaid, fur-  
 10 ther proceedings under the writ of *habeas corpus* shall immediately  
 11 cease, and remain suspended so long as this act shall continue  
 12 in force, unless the writ shall have been issued by a court or  
 13 judge of the Confederate States, in the case of a person seeking  
 14 to avoid or to be discharged from military service, as mentioned in  
 15 the fifteenth clause of the first section of this act. But such sus-  
 16 pension shall not apply to writs issued before the passage of this  
 17 act.

1 SEC. 4. Every order of arrest or detention mentioned in this  
 2 act shall be in writing, describing the person to be arrested or



3 detained and stating the cause of arrest, or detention, and shall  
4 be supported by affidavit, showing, from the knowledge, or from  
5 the information and belief of the affiant, that the case is one of  
6 those in which (as hereinbefore declared) it is the purpose of  
7 Congress that the writ of *habeas corpus* shall be suspended, with  
8 particulars of time, place, and circumstance as, from the nature  
9 of the case, may be necessary to fairly exhibit the cause of  
10 arrest or detention. The party arrested or detained shall be fur-  
11 nished, on his request, with copies of the order and affidavit;  
12 and like copies shall accompany the return of the officer having  
13 charge of the party to the writ of *habeas corpus*.

1     SEC. 5. If any person shall be arrested or detained under a  
2 like written order of any General officer of the army commanding  
3 a department or district, (other than the General officer com-  
4 manding the trans-Mississippi department,) supported by like  
5 affidavit, in such case, upon a return, under oath or affirmation,  
6 showing those facts and accompanied with copies of the order  
7 and affidavit, proceedings under the writ of *habeas corpus* shall  
8 be suspended until there shall be time for the officer making the  
9 order, or the officer having charge of the party, to communicate  
10 with the President, the Secretary of War, or the General officer  
11 commanding the trans-Mississippi department, and receive a  
12 reply, but not more than twenty days from the commencement of  
13 the detention.

1     SEC. 6. This act shall continue in force for ninety days after  
2     the next meeting of Congress, and no longer.

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